

**UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF NEW YORK**

INNER CITY PRESS/COMMUNITY  
ON THE MOVE,

Plaintiff,

- v. -

BOARD OF GOVERNORS OF THE FEDERAL  
RESERVE SYSTEM,

Defendant.

**ECF CASE**

No. 04 Civ. 8337 - DLC

**COMPLAINT**

**COMPLAINT FOR DECLARATORY AND INJUNCTIVE RELIEF**

1. Plaintiff Inner City Press/Community on the Move (“ICP”), a nonprofit organization dedicated to reporting and engaging in advocacy on matters of public concern affecting lower-income consumers and communities, brings this action under the Freedom of Information Act (“FOIA”), 5 U.S.C. § 552, as amended, against the Board of Governors of the Federal Reserve System (“FRB”) to compel the production of information on the sub-prime lending practices of two banks — Wachovia Corporation and SouthTrust Corporation — which in July 2004 submitted a merger application with the Board. The information sought by ICP would shed light on whether Wachovia and SouthTrust, through intermediaries such as pawnshops and payday lenders, engage in unfair and predatory lending practices in low to middle-income neighborhoods, contrary to their obligations under the Community Reinvestment Act (“CRA”), 12 U.S.C. § 2903.

## **JURISDICTION**

2. This court has subject matter jurisdiction over this action pursuant to 5 U.S.C. § 552(a)(4)(B).

## **PARTIES**

3. Plaintiff Inner City Press/Community on the Move is a not-for-profit corporation incorporated under the laws of the State of New York and is headquartered in the South Bronx, New York. Plaintiff engages in research, advocacy, reporting, and grass-roots organizing in the areas of community reinvestment, fair access to credit, and government and corporate accountability.
4. Defendant Board of Governors of the Federal Reserve System is an agency of the United States and possesses the records Plaintiff requested. Defendant supervises and regulates banking institutions, ensuring their compliance with the mandates of the CRA.

## **FACTUAL BACKGROUND**

5. By facsimile transmission dated July 19, 2004, Mr. Matthew Lee, Executive Director of Plaintiff Inner City Press/Community on the Move, submitted a FOIA request on behalf of Plaintiff to Defendant seeking the application, notices, and any additional records relating to a proposed bank merger between Wachovia Corporation and SouthTrust Corporation.
6. By letter dated July 20, 2004, Ms. Gaile B. Clark, Staff Assistant, responded to Plaintiff's FOIA request and released to Mr. Lee a portion of the merger application. Defendant withheld the remainder of the merger application without any explanation. Among the withheld documents was an exhibit entitled "Confidential Exhibit 3: Discussion of Activities Relating to Sub-Prime Lending" ("Exhibit 3").

7. By facsimile transmission dated July 28, 2004, Plaintiff administratively appealed Defendant's failure to release the entire merger application, including Exhibit 3.
8. By letter dated August 5, 2004, Mr. Robert de V. Frierson, Deputy Secretary of the Board, responded to Plaintiff's appeal by advising Mr. Lee that the appeal was premature and that the time period for the FRB to respond the Plaintiff's FOIA request had not yet expired.
9. By letter dated August 13, 2004, from Ms. Jennifer J. Johnson, Secretary of the Board, Defendant denied Plaintiff's FOIA request with respect to the release of the withheld portion of the application. Citing Exemption 4 of the Act, Defendant withheld Exhibit 3 because, according to Defendant, it contained "commercial or financial information obtained from a person and privileged or confidential." 5 U.S.C. § 552(b)(4).
10. On September 17, 2004, Plaintiff, through counsel, submitted a timely administrative appeal of Defendant's refusal to release Exhibit 3.
11. By letter dated October 6, 2004, Ms. Susan Schmidt Bies, Governor, Federal Reserve Board, denied Plaintiff's appeal for the release of Exhibit 3.

#### **CAUSE OF ACTION**

12. Plaintiff has a legal right under FOIA to the information contained in Exhibit 3, and Defendant has no legal basis for refusing to provide Plaintiff with that information.

**PRAYER FOR RELIEF**

WHEREFORE, Plaintiff requests that this Court issue an Order:

- A. Declaring that Defendant's failure to provide Plaintiff the requested information is unlawful;
- B. Enjoining Defendant to provide the requested information to Plaintiff forthwith;
- C. Awarding Plaintiff its costs and attorney fees pursuant to 5 U.S.C. § 552(a)(4)(E); and
- D. Granting such other relief as this Court deems just and proper.

Respectfully Submitted,

Dated: October 20, 2004

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